

**REMARKS/ARGUMENTS**

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1-9 and 11-13 are pending in the above application, of which, claims 1 and 11 are independent. By the above amendment, claim 10 has been cancelled without prejudice.

The Office Action dated December 15, 2009, has been received and carefully reviewed. In that Office Action, claims 1-10 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite, claim 10 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, and objections were raised in connection with the drawings. In addition, claims 1-3, 5, 7 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by EP 0768197, claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0768197 in view of DE 19919132, claims 1-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19919132 in view of Waldman, and claim 10 was rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0768197 in view of JP 7-164863. It is believed that all claims patentably distinguish over the art of record, and reconsideration and allowance of all claims is respectfully requested in view of the above amendments and the following remarks.

**DRAWING OBJECTIONS**

The drawings were objected to because subject matter "inherently claimed" in claims 1 and 6 was not illustrated in the drawings. The portion of the specification referred to in the Office Action refers to an embodiment without a supplementary

heater. The language "supplementary heater" has been removed from claims 1 and 6, and it is believed that the drawings show all elements recited in claims 1-9 and 11-13.

The drawings were also objected to for failing to include a figure illustrating the invention recited in claim 10. By the above amendment, claim 10 has been cancelled. The withdrawal of the objections to the drawings is therefore respectfully requested.

#### REJECTIONS UNDER 35 U.S.C. 112, SECOND PARAGRAPH

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The first basis for finding the claims indefinite was the presence of the phrase "characterized in that" in claims 1 and 10. This phrase has been replaced with the term "wherein" in claim 1, and claim 10 has been cancelled.

The second basis for rejecting the claims was the alleged indefiniteness of the phrase "interacts with components" in claim 1. Claim 1 has been amended to recite a dividing element that "contacts and overlaps with at least one of the dividing walls and/or at least one of the dividing elements of a component adjacent to the heater," and it is believed that claim 1 as amended is clear and definite.

Finally, the Office Action indicates that the meaning "network of the heat exchanger" is not clear and that "collecting tanks" are not illustrated. It is respectfully submitted that one of ordinary skill in the art would recognize the generally hemispherical elements on the top and bottom of heater 5 in Figure 2 as "collecting tanks" for water flowing through heater 5 which comprises a fluid-filled heat exchanger. A replacement drawing sheet is submitted herewith which includes reference numerals 5' to identify the collecting tanks, which are mentioned at page 5, line 12, of the

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application. The "network" of the heat exchanger comprises the flat tubes or pipes and associated cooling fins in between the collecting tanks. By the above amendment, claim 7 has been revised to refer to the "central portion" of the heater instead of a "network." Figure 2 shows that the central portion of the heater 5 is undercut with respect to the wider collecting tanks 5', and this arrangement is discussed at page 5, lines 3-16. It is therefore respectfully submitted that the above amendment to claim 7 is supported by the specification and does not constitute new matter. The withdrawal of the claim rejections under 35 U.S.C. 112, second paragraph, is respectfully requested in view of the above amendments and foregoing remarks.

#### REJECTIONS UNDER 35 U.S.C. 112, FIRST PARAGRAPH

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as not being enabled by the specification. By the above amendment, claim 10 has been cancelled, thereby obviating this rejection.

#### REJECTIONS UNDER 35 U.S.C. 102(b)

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by EP 0768197. Claim 1 as amended recites a multizone air conditioning system of a motor vehicle having, as viewed in the direction of airflow, a control element for controlling the temperature, a vaporizer and a heater which are arranged in an air guiding housing. The air guiding housing has dividing walls, and at least one dividing element for the sealed division of the individual zones of the air conditioning system is provided on the heater. The dividing element contacts and overlaps at least one of the dividing walls

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and/or at least one of the dividing elements of a component adjacent to the heater. EP 0768197 shows a heat exchanger 11 and dividing walls 17, 18. However, EP 0768197 does not show dividing elements as recited in amended claim 1 much less dividing elements that contact and overlap at least one dividing wall and/or at least one dividing element of a component adjacent to the heater. EP 0768198 does not show at least this limitation of claim 1, and claim 1 is submitted to be allowable over EP 0768198 for at least this reason.

Claims 2-9 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

#### REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0768197 (a rejection presented as an alternative in connection with the 35 U.S.C. 102(b) rejection). It is respectfully submitted that the requirements of MPEP 706.02(j) have not been satisfied and that a prima facie case of obviousness has not been presented in connection with claim 1. Section 706.02(j) requires an examiner, when making a rejection under 35 U.S.C. 103(a), to identify the limitations of a claim that are not taught by a reference and explain the modification to the reference that is needed to arrive at the claimed subject matter. A reason for making such a modification also must be provided. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). The Office Action does not identify the element that is missing from EP 0768197 or explain how EP 0768197 should be modified to arrive at the invention of claim 1. A prima facie case of obviousness has not been presented against claim 1 based on EP 0768197, and claim

1 is submitted to patentably distinguish over EP 0768197 for at least this reason.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0768197 in view of DE 19919132. Claim 4 depends from claim 1. DE 19919132 does not address the shortcomings of EP 0768197 discussed above in connection with claim 1. Claim 4 is therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19919132 in view of EP 0768197. The Office Action indicates that it would have been obvious to have "...clipped the cross shaped dividing element shown in Figure 4 of DE '132 to the heater core 6 of DE '132 in the manner taught by Waldmann...." It is respectfully submitted that Figure 4 of DE 19919132 is a cross-section taken through curved plane B-B of Figure 3 as shown by the machine translation of DE 19919132 obtained from the website of the European Patent Office, a copy of which is submitted herewith. Most elements in Figure 4 are spaced from the heater 6. It is therefore not clear which portion of Figure 4 is being interpreted as a "cross-shaped dividing element, and clarification is requested.

The examiner might have been proposing to attach wall portion 24 illustrated in Figures 1 and 4 of DE 19919132 to heat exchanger 6. However, Waldmann discloses two adjacent heat exchange circuits separated by a gap and provides a cover 21, 26 or 37 to prevent air from flowing between the two circuits. DE 19919132 does not include two adjacent heat exchange circuits with a gap therebetween that requires covering; therefore there appears to be no reason for one of ordinary skill in the art to add such a cover to DE 19919132.

The reason provided by the Office Action for modifying DE 19919132 is that the modification would “advantageously facilitate rapid assembly of the device as well as to advantageously facilitate rapid disassembly of the device for repair.” However, Waldmann is not directed to an improved method for assembling or disassembling a device, and it is not clear how adding a cover to DE 19919132 would make the assembly or disassembly of DE 19919132 any easier. Adding a cover to DE 19919132 appears to serve no purpose, and even if it were added, it would seem to make the assembly of DE 19919132 more complex. It is therefore submitted that a proper reason for modifying DE 19919132 has not been presented, the requirements of *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007) have not been satisfied, and claim 1 is submitted to be allowable over DE 19919132 for at least this reason.

If the rejection of claim 1 as being unpatentable over DE 19919132 in view of Waldmann is not withdrawn, it is respectfully requested that the examiner explain 1) how adding Waldmann's cover 37 to DE 19919132 would make the assembly or disassembly of DE 19919132 easier, or 2) provide some other reason that one of ordinary skill in the art would have for adding a cover to DE 19919132 given the fact that DE 19919132 does not include a gap that needs to be covered like the Waldmann device.

Finally, even if a proper reason were provided for modifying DE 19919132, the result would still not be a dividing element that contacts and overlaps at least one of the dividing walls and/or at least one of the dividing elements of a component adjacent to the heater as recited in amended claim 1, and claim 1 is submitted to be allowable for this reason as well.

Claims 2-9 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

### NEW CLAIMS

New claim 11 is also submitted to be allowable over the art of record. Claim 11 recites a multizone air conditioning system of a motor vehicle that includes an air guiding housing having an interior and configured to guide air through the air guiding housing in an airflow direction, a vaporizer, and a heater downstream from said vaporizer. Claim 11 also recites at least one dividing wall in the air guiding housing configured to divide an output of the heater into first and second flow paths and a first dividing element on the heater overlapping said dividing wall and sealingly connecting said heater to said dividing wall. EP 076819, DE 19919132, Waldmann and the other art of record do not show or suggest at least an overlap between a dividing wall and a dividing element as recited in claim 11, and claim 11 is submitted to be allowable for at least this reason.

Claims 12 and 13 depend from claim 11 and are submitted to be allowable for at least the same reasons as claim 11.

### CONCLUSION

Each issue raised in the Office Action dated December 15, 2009, has been addressed, and it is believed that claims 1-9 and 11-13 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better

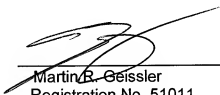
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condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

*Deposit Account Authorization*

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



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**Date: February 22, 2010**



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Annotated

